

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER PENDING "REFERENCE" APPLICATIONS**

Docket Number (Optional)

**H-112**In re Application of: **Daniel A. Henderson**

Application Number

~~10/728,404~~ **10728,440**

Filed

**12/05/2003**

For:

**Method and Apparatus For Improved Personal Communication Devices and Systems**

The owner, Daniel A. Henderson, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on any of the pending reference applications listed below, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns. The reference applications are as follows: Serial No. 08/726,024, filed 10/04/1996; Serial No. 10/033,824, filed 12/19/2001; Serial No. 10/047,191, filed 11/07/2001; Serial No. 10/692,179, filed 10/23/2003; Serial No. 11/045,677, filed 01/28/2005; Serial No. 11/050,370, filed 02/03/2005; Serial No. 11/052,560, filed 02/05/2005; Serial No. 11/059,121, filed 02/16/2005; Serial No. 11/115,445, filed 04/27/2005; Serial No. 11/134,669, filed 05/19/2005; and Serial No. 11/134,670, filed 05/19/2005

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that any such patent granted on the pending reference application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claimed canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc. the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

01/30/2007 HDEMESS1 00000036 10728440

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 24,581 01 FC:1814

130.00 07

Signature

1/25/2007

Date

Robert K. Tendler

Typed or printed name

617-723-7268

Telephone Number

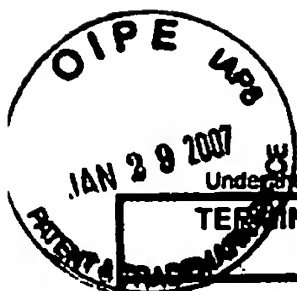
- ☒ A check in the amount of the Terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 20-0449. I have enclosed a duplicate copy of this sheet.

Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 25 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTI-9189 and select option 2.

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

**H-112**In re Application of: **Daniel A. Henderson**

Application Number

~~10728,404~~ **10728,440**

Filed

**12/05/2003**

For:

**Method and Apparatus For Improved Personal Communication Devices and Systems**

The owner, Daniel A. Henderson, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,278,862 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later **01/30/2007 HDEMESS1 00000036 10728440**

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claimed canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

**02 FC:1814****130.00 DP**

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc. the undersigned is empowered to act on behalf of the business/organization;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or agent of record. Reg. No. 24,581

Signature

**Robert K. Tendler**

Typed or printed name

Date

**617-723-7268**

Telephone Number

- ☒ A check in the amount of the Terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 20-0449. I have enclosed a duplicate copy of this sheet.

Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.138(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 25 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTI-9199 and select option 2.